

SENATE BILL 3585  
By Person, Curtis

AN ACT to amend Tennessee Code Annotated, Title 35,  
Chapter 5, Part 1, relative to judicial or trust sales.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 35, Chapter 5, Part 1, is amended by  
adding the following new section:

**§35-5-116.**

(a) Within ten (10) days of a sale of land for the foreclosure of a mortgage or deed of trust pursuant to this chapter, the trustee or substitute trustee may rescind such sale and trustee's deed or similar document of conveyance by filing an affidavit to rescind the trustee's deed and sale with the applicable register of deeds for one (1) of the following reasons:

- (1) Filing of bankruptcy by a person holding an interest in the property;
- (2) A statutory or regulatory requirement for sale not being fulfilled;
- (3) The default leading to the sale being cured prior to the sale;
- (4) Incorrect legal description or address;
- (5) Bidding error at the time of the sale by the holder of the security interest or its agent; or
- (6) Presence of an executed agreement between lender and borrower entered into prior to the sale to cancel the sale bound upon an enforceable promise by the borrower to cure the default.

(b) Upon rescission of a sale pursuant to this section, all persons affected by the sale shall be restored to all right, title and interest held by them in the property prior to the sale and the priority of all liens and interests shall be preserved.

(c) Damages for the rescission of such sale provided in this section shall be limited to the following:

(1) Return of the purchase price;

(2) Interest paid by the purchaser from the date of the foreclosure sale until the date the funds are returned at a rate not to exceed ten (10%) percent annually; and

(3) Any related recording fees paid by the purchaser at the foreclosure sale.

(d) Notwithstanding any other provisions of law, specific performance shall not be a remedy available under the provisions of this section.

SECTION 2. Tennessee Code Annotated, Title 35 Chapter 5, Part 1, is further amended by adding the following new section:

**§35-5-117.**

In any sale of land for the foreclosure of a deed of trust pursuant to this chapter, the purchaser obtains no implied warranty of title and shall have no recourse on the trustee or creditor for failure of title.

SECTION 3. Tennessee Code Annotated, Section 35-5-107, is amended by deleting such section in its entirety.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.